

courts of equity. The clearly expressed intention and purpose of the deceased to have his wife named as the beneficiary in this insurance should control, and should not be thwarted by the fact that all the formalities for making this purpose effective may not have been complied with."

UNITED STATES VS. MALLERY, SECOND CIRCUIT, 48 FED.

2ND 6.

AMROSE VS. UNITED STATES, DISTRICT JUDGE, 15 FED.

2ND 52.

SCHROEDER VS. UNITED STATES, DISTRICT JUDGE, SO. D.

OHIO, 24 FED. 2ND 420.

PETITIONER'S ASSIGNMENT
OF ERROR

The said Circuit Court of Appeals erred in holding that the insured's orally expressed intention to change the beneficiary of his insurance from his mother to his wife was not effectuated by the designation by insured in the "Confidential Personal Report," signed by him, and in which he designated his wife as the beneficiary of said insurance.

PETITIONER'S BRIEF IN SUPPORT
OF PETITION FOR CERTIORARI

The majority opinion of the Circuit Court of Appeals, whose judgment is here sought to be reviewed, discloses that there was issued to insured a policy of National Service Life Insurance in the sum of Ten Thousand (\$10,000.00) Dollars in which his mother, Lena M. Bradley, was named as the beneficiary.

That thereafter, insured married, and that as a member of the Air Force he, accompanied by his wife, petitioner here, reported at Windsor Locks, Connecticut, and two days later executed the instrument called "Confidential Personal Report." Said report reads as follows:

"CONFIDENTIAL PERSONAL REPORT

U. S. ARMY AIRPORT
Windsor Locks, Connecticut,
Aug 20 1941.

Bradley	Eugene	M.	2d Lt.	A.C.
<u>Last Name</u>	<u>First</u>	<u>Middle</u>	<u>Rank</u>	<u>Arm</u>
Home Address <u>1080 Poquonock Ave.. Windsor Conn.</u>				
Notify in an Emergency <u>Ann Bradley</u>			<u>Wife</u>	<u>1080 Poquonock Ave Windsor Conn.</u>
		<u>Name</u>	<u>Relationship</u>	<u>Complete Address</u>
Single <u> </u>	Married <u>X</u>	<u>Wife's Given Name</u>		<u>Ann M.</u>
Children <u>None</u>				
		<u>Name</u>	<u>Age</u>	<u>Sex</u>
		<u>Ann M.</u>		
Government Insurance <u>Yes</u>		Amount <u>\$10,000</u>	Type <u>Gov't</u>	Beneficiary <u>Bradley</u>
Location of Policies, Will or other Important Papers				<u>with Wife</u>
Religion		<u>Methodist</u>		
Signature		<u>Eugene M. Bradley</u>		

Said majority opinion further recites that insured's wife, petitioner, testified that he discussed the matter of changing the beneficiary of his policy from his mother to her and that he told her "he had taken care of the insurance at the Army base." Said majority opinion further recites that according to affidavits of a number of his comrades, the insured on numerous occasions dis-

cussed with them his intention to change the beneficiary of his insurance from his mother to his wife, and sought and obtained advice from them concerning the method of doing so and expressed his intention to do so.'

Said Report names insured's wife as the custodian of his policy and other papers. Insured lost his life in a plane crash the next day after executing and filing with the air base adjutant said "Confidential Personal Report."

The insured's statement to his wife that he "must attend to this tomorrow" and on the following day his statement to his wife that "he had taken care of the insurance at the Army base," together with the physical act of writing in on said "Confidential Personal Report" the name of his wife as the beneficiary of his said insurance and signing same, are acts in effectuation of the soldier's expressed intention to make the change of beneficiary of his insurance from his mother to his wife. Those acts should be given effect upon the principle thus stated in KASCHEFSKY VS. KASCHEFSKY, Supra, reading:

"Form, formality and legal technicality must give way to common sense and remedial justice, when all doubt is removed as to the intent of the deceased soldier; and when the purpose of the law has been complied with, there should be no hesitation in carrying out the express wish of such deceased *****."

Petitioner is giving notice of the filing of this petition for certiorari by forwarding a copy hereof to each of the follow-

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Petitioner is giving notice of the filing of this petition for certiorari by forwarding a copy hereof to each of the follow-

ing named persons, to-wit:

1. F. L. Welch, attorney for respondent, Lena M. Bradley, Antlers, Oklahoma.
2. Lester T. Schoene, Director, Bureau of War Risk Litigation, Department of Justice, Washington, D. C.
3. Cleon A. Summers, United States Attorney, Muskogee, Oklahoma.
4. Charles L. Chalender, Bureau of War Risk Litigation, Springfield, Missouri.

WHEREFORE, Annie Mae Bradley, in her own proper person filing this petition for certiorari, prays that the Supreme Court of the United States grant a writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit requiring it to transmit the record of the proceedings of cause No. 2886 entitled Lena M. Bradley, appellant, vs. United States of America and Annie Mae Bradley, appellees, to this court in order that the said cause and the judgment of the said Circuit Court may be reviewed by this court. And petitioner prays that on such review this court reverse the judgment of the said Circuit Court of Appeals in this case insofar as the said judgment reverses the judgment of the trial court decreeing petitioner to be the legal beneficiary of the insurance herein involved, and that this court by its judgment in all things affirm the judgment of the trial court in this case save and except that part of its judgment in respect of the payment of attorney's fees herein. And your petitioner

further prays that she have at the hands of this court all relief, general and special, at law or in equity, to which she may be rightly entitled. And petitioner further prays that as to any costs incurred in this court, it be the order of this court that her affidavit of inability to pay costs, signed herein coincident with the filing of this petition for certiorari, be accepted and such costs ordered not adjudged against her.

Annie Mae Bradley
Annie Mae Bradley, c/o Andrew Dilworth
407-11 National Bank of Commerce Bldg.
San Antonio 5, Texas